ENVIRONMENTAL QUALITY

CHAPTER 24

RECLAMATION

Sub-Chapter 8

Strip and Underground Reclamation Act:
Alluvial Valley Floors, Prime Farmlands,
Alternate Reclamation, and Auger Mining

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17.24.801 ALLUVIAL VALLEY FLOORS: PRESERVATION OF ESSENTIAL HYDROLOGIC FUNCTIONS AND PROTECTION OF FARMING

(1) Strip or underground coal mining operations must be conducted to preserve, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors not within a permit area. These functions must be preserved by maintaining those geologic, hydrologic and biologic characteristics that support those functions.

(2) Strip or underground coal mining and reclamation operations must be conducted to reestablish, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors within an area of land affected. These functions must be reestablished by reconstructing those geologic, hydrologic and biologic characteristics that support those functions.

(3) Strip or underground coal mining operations must be conducted to ensure that the agricultural utility and the level of productivity of alluvial valley floors in affected areas are reestablished to premining levels. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.802 ALLUVIAL VALLEY FLOOR: PROTECTION OF FARMING AND PREVENTION OF MATERIAL DAMAGE (1)(a) Strip or underground coal mining operations must not interrupt, discontinue, or preclude farming on alluvial valley floors, unless:

(i) the premining land type is undeveloped rangeland that is not significant to farming; or

(ii) the area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms.

(b) If environmental monitoring shows that a strip or underground coal mining operation is interrupting, discontinuing, or precluding farming on alluvial valley floors, the operation must cease until remedial measures are taken by the operator. The remedial measures must be approved by the department prior to the resumption of mining.

(2) Strip or underground coal mining and reclamation operations must not cause material damage to the quality or quantity of water in surface or underground water systems that supply alluvial valley floors. If environmental monitoring shows that the strip or underground coal mining operation is

causing material damage to water that supplies alluvial valley floors, the mining operations must cease until remedial measures are taken by the operator. The remedial measures must be approved by the department prior to the resumption of mining operations.

(3) Sections (1) and (2) of this rule do not apply to those lands which were identified in a reclamation plan approved by the department before August 3, 1977, for any strip or underground coal mining and reclamation operation that, in the year preceding August 3, 1977:

(a) produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor, or

(b) obtained specific permit approval by the department to conduct strip or underground coal mining and reclamation operations within an alluvial valley floor. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

Rule 17.24.803 reserved

17.24.804 ALLUVIAL VALLEY FLOORS: MONITORING (1) An environmental monitoring system must be installed, maintained and operated by the permittee on all alluvial valley floors during strip or underground coal mining and reclamation operations and continued until all bonds are released in accordance with ARM 17.24.1114. The monitoring system must provide sufficient information to allow the department to determine that:

(a) the agricultural utility and production of the alluvial valley floor not within the affected area is being preserved;

(b) the potential agricultural utility and production on the alluvial valley floor within the area the land affected has been reestablished;

(c) the important characteristics supporting the essential hydrologic functions of the alluvial valley floor in the affected area have been reestablished after mining;

(d) the important characteristics supporting the essential hydrologic functions of an alluvial valley floor in areas not affected are preserved during and after mining;

(e) farming on lands protected under ARM 17.24.802 is not being interrupted, discontinued, or precluded; and

(f) the operation is not causing material damage to the quantity or quality of water in the surface or underground systems that supply alluvial valley floors protected under ARM 17.24.802.

(2) Monitoring must be performed at adequate frequencies, to indicate long-term trends that could affect agricultural use of the alluvial valley floors.

(3) Monitoring must be performed during operations to identify characteristics of the alluvial valley floor not identified in the permit application and to evaluate the importance of all characteristics requested by the department.

(4) All monitoring data collected and analyses thereof must routinely be made available to the department. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.805 ALLUVIAL VALLEY FLOORS: SIGNIFICANCE DETERMINATION (1) The significance of the impact of the proposed operations on farming is based on the relative importance of the vegetation and water of the grazed or hayed alluvial valley floor area to the farm's production, or any more stringent criteria established by the department as suitable for site-specific protection of agricultural activities in alluvial valley floors. The effect of the proposed operations on farming is "significant" if the operations would, over the life of the mine, have more than a negligible impact on the farm's agricultural production. In making the determination of "significance", the department shall consult with the affected landowner(s). (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1990 MAR p. 936, Eff. 5/18/90; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.806 ALLUVIAL VALLEY FLOORS: MATERIAL DAMAGE DETERMINATION Criteria for determining whether a strip or underground coal mining operation will materially damage the quantity or quality of waters include, but are not limited to:

(1) potential increases in the concentration of total dissolved solids of waters supplied to an alluvial valley floor, as measured by specific conductance in millimhos, to levels above the threshold value at which crop yields decrease, as specified in Maas and Hoffman, "Crop Salt Tolerance--Current Assessment," Table 1, "Salt Tolerance of Agricultural Crops," unless the applicant demonstrates compliance with (2) of this rule. Salt tolerances for agricultural crops have been published by E.V. Maas and G.J. Hoffman, in a paper entitled "Crop Salt Tolerance--Current Assessment" contained in the Journal of the Irrigation and Drainage Division, American society of civil engineers, pages 115-134, June, 1977. Table 1, giving threshold salinity values is presented on pages 22-125. For types of vegetation not listed in Maas and Hoffman as specified by the department, based upon consideration of observed correlation between total dissolved solid concentrations in water and crop yield declines taking into account the accuracy of the correlations. This publication is hereby incorporated by reference as it exists on March 13, 1979. The Maas and Hoffman publication is on file and available for inspection at the Department of Environmental Quality, 1520 E. 6th Ave., Helena, MT 59620-0901;

(2) potential increases in the concentration of total dissolved solids of waters supplied to an alluvial valley floor in excess of those incorporated by reference in (1) of this rule. These increases are not allowed unless the applicant demonstrates, through testing related to the production of crops

grown in the locality, that the proposed operations will not cause increases that will result in crop yield decreases;

(3) potential increases in the average depth to water saturated zones (during the growing season) located within the root zone of the alluvial valley floor that would reduce the amount of subirrigated land compared to premining conditions;

(4) potential decreases in surface flows that would reduce the amount of irrigable land compared to premining conditions; and

(5) potential changes in the surface or ground water systems that reduce the area available to agriculture as a result of flooding or increased saturation of the root zone. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-227, 82-4-231, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

Rules 17.24.807 through 17.24.810 reserved

17.24.811 PRIME FARMLAND: SOIL HANDLING (1) Operators who disturb prime farmlands shall comply with applicable performance standards of ARM 17.24.701 through 17.24.703.

(2) Prime farmland soil removal and stockpiling operations must be conducted in compliance with 82-4-232(3)(a) and (b), MCA. The minimum thickness of soil materials to be removed for use in reconstructing prime farmland soils must be sufficient to meet the soil replacement requirements of (3) of this rule. Prime farmland soil materials must be handled separately from other soil materials, including salvage, stockpiling and redistribution, unless otherwise approved by the department upon a finding that the other soil materials with which the prime farmland soil would be combined meet the requirements of quality set forth in 82-4-232(3)(a) and (b), MCA.

(3) The minimum thickness of soil to be reconstructed for prime farmland must be 48 inches or a thickness equal to the depth to a subsurface horizon in the natural soil that inhibits root penetration, whichever is shallower. The department shall specify a depth greater than 48 inches wherever necessary to restore productive capacity. Soil horizons are considered inhibitory to root penetration if their physical or chemical properties restrict or prevent penetration by roots.

(4) Prime farmland soils must be removed, immediately redistributed or stockpiled, and reconstructed in a manner that results in a soil having equal or greater productive capacity than that which existed prior to disturbance. The A and E horizons or other suitable soil materials must be replaced as the surface soil layer to a thickness that will equal or exceed the thickness of this layer as it existed before disturbance. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

Rules 17.24.812 through 17.24.814 reserved

17.24.815 PRIME FARMLAND: REVEGETATION (1) Each operator who conducts strip or underground mining operations on prime farmland shall, within the area identified as prime farmland before disturbance:

(a) if the approved postmining land use is not cropland:

(i) randomly establish test plots that will be cropped until restoration of the premining productivity has met the requirements of this rule. The remainder of the area not used for test plots must be revegetated consistent with the standards of ARM 17.24.711, 17.24.713, 17.24.714, 17.24.716 through 17.24.718, 17.24.721, 17.24.723 through 17.24.726, and 17.24.731 and with the approved postmining land use. When restoration of the premining productivity has been demonstrated, the operator shall revegetate the test plots consistent with the standards of ARM 17.24.711, 17.24.713, 17.24.714, 17.24.716 through 17.24.718, 17.24.721, 17.24.723 through 17.24.726 and 17.24.731 and with the approved postmining land use; or

(ii) crop the entire area of disturbed prime farmland until restoration of the premining productivity is demonstrated. The operator shall then revegetate the entire area consistent with ARM 17.24.711, 17.24.713, 17.24.714, 17.24.716 through 17.24.718, 17.24.721, 17.24.723 through 17.24.726, and 17.24.731 and with the approved postmining land use; or

(b) if the approved postmining land use is cropland, permanently reclaim the area to cropland.

(2) All prime farmlands reclaimed either temporarily or permanently as cropland must meet the following revegetation requirements:

(a) following soil replacement, the operator shall implement the revegetation and erosion-control plan approved by the department under ARM 17.24.324, as follows:

(i) This plan must be carried out in a manner that encourages prompt vegetative cover and recovery of productive capacity.

(ii) Nutrients, other soil amendments, and other management techniques such as irrigation must be applied as approved by the department and as necessary to be consistent with (d).

(iii) The provisions of ARM 17.24.713 and 17.24.714 must be met.

(b) Within a time period specified in the permit, but not to exceed 10 years after completion of backfilling and rough grading, areas to be reclaimed either temporarily or permanently to cropland must be planted to the crops that have been approved under ARM 17.24.324 and that are commonly grown on surrounding prime farmland. As appropriate, the crops may be grown in rotation with hay or pasture crops as defined for cropland in ARM 17.24.825(1). The department may approve a crop use of perennial plants for hay where this is a common long term use of prime farmland soils in the surrounding area;

(c) if row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth must be one of the reference crops;

(d) the level of management must be equivalent to that occurring on the reference area(s) or on which the target yields are based pursuant to (e); and

(e)(i) revegetation success on prime farmlands must be determined upon the basis of a comparison of actual crop production on the disturbed area and the crop production on reference areas meeting the following requirements:

(A) reference areas must consist of representative undisturbed prime farmland supporting the crops commonly grown on those prime farmlands proposed for disturbance;

(B) reference areas must have soils, slopes, and other pertinent characteristics comparable to those proposed for disturbance; and

(C) the location of reference areas and the yields from them that are used to determine revegetation success pursuant to (2)(e)(i) must be determined with the concurrence of the Montana state office of the U.S. natural resources conservation service.

(ii) if undisturbed prime farmland is not available for comparison purposes, comparison of production on the disturbed area must be made with target yields approved by the department and meeting the following standards:

(A) target yields for a given year must be determined on the basis of current yield records of representative local farms, with the concurrence of the Montana state office of the U.S. natural resources conservation service, or by the average county yields recognized by the U.S. department of agriculture;

(B) these yields must be adjusted as necessary by the Montana state office of the U.S. natural resources conservation service for local yield variation that is associated with differences between undisturbed prime farmland soil and all other soils that produce the crops of interest within the locale or the county;

(iii) under either procedure in (2)(e)(i) or (ii), crop production of the reference area or the target yield must be adjusted, as necessary, with the concurrence of the Montana state office of the U.S. natural resources conservation service, for:

(A) disease-, pest-, and weather-induced seasonal variations; or

(B) differences in specific management practices where the overall management practices of the crops being compared are equivalent;

(f) crop production on disturbed prime farmland must be determined based upon a minimum of three consecutive crop years of data;

(i) for permanent cropland, these three years of data must include the last year of a minimum 10-year period of responsibility preceding the application for phase III bond release;

(ii) for temporary test plots, these three years of data must include the last year of a minimum 10-year period of crop production;

(g) crop production on the prime farmland reference area must be determined based upon a minimum of three consecutive crop years of data consistent with (f)(i) or (ii) above, as appropriate; and

(h) revegetation on prime farmland is considered successful when the crop yield for each of the three years is equivalent to, or higher than, that on the reference area or the target yield. This equivalence must be shown at least at the 10% level of significance using statistically appropriate sampling techniques approved by the department in consultation with the Montana state office of the U.S. natural resources conservation service. (History: 82-4-204, MCA; IMP, 82-4-227, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 1999 MAR p. 2768, Eff. 12/3/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

Rules 17.24.816 through 17.24.820 reserved

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17.24.821 ALTERNATIVE POSTMINING LAND USES: SUBMISSION OF PLAN (1) An operator may propose to the department a plan for a higher or better use as an alternative postmining land use pursuant to 82-4-232(7) and (8), MCA. With appropriate maps, narrative, and other materials, the plan must:

(a) describe the nature of the alternative postmining land use;

(b) address all of the criteria in 82-4-232(8) and (9), MCA; and

(c) address the applicable requirements of ARM 17.24.823(1).

(2) Each application for alternative postmining land use is subject to public review requirements of subchapter 4 either as part of a new application or as an application for a major revision. However, in its notice of application to government entities pursuant to ARM 17.24.401, the department shall allow 60 days for submission of comments from authorities having jurisdiction over land use policies and plans, and from appropriate state and federal fish and wildlife agencies. (History: 82-4-204, 82-4-232, MCA; IMP, 82-4-233, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1994 MAR p. 2957, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

Rule 17.24.822 reserved

17.24.823 ALTERNATIVE POSTMINING LAND USES: APPROVAL OF PLAN (1) The department may approve a proposed alternative postmining land use if all of the following criteria are met:

(a) the requirements of 82-4-232(8) and (9), MCA;

(b) the proposed postmining land use is compatible, where applicable, with existing local, state or federal land use policies or plans relating to the permit area. Demonstration of compatibility with land use policies and plans must include, but is not limited to:

(i) written statement of the authorities with statutory responsibilities for land use policies and plans submitted pursuant to ARM 17.24.821(2); and

(ii) as applicable, obtaining any required approval, including any necessary zoning or other changes required for land use by local, state or federal land management agencies. This approval must remain valid throughout the strip or underground mining operations;

(c) specific plans are submitted to the department that show the feasibility of the postmining land use as related to projected land use trends and markets and that include a schedule showing how the proposed use will be financed, developed, and achieved within a reasonable time after mining and how it will be sustained. These plans must be supported, if appropriate, by letters of commitment from parties other than the operator;

(d) as applicable, provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the operator as appropriate, to provide the public facilities in a manner compatible with the plans submitted;

(e) plans for the postmining land use are designed under the general supervision of a licensed professional engineer, or other appropriate professional, to ensure that the plans conform to applicable accepted standards for adequate land stability, drainage, and aesthetic design appropriate for the postmining use of the site;

(f) the use will not involve unreasonable delays in reclamation; and

(g) appropriate measures submitted by state and federal fish and wildlife management agencies to prevent or mitigate adverse effects on fish, wildlife, and related environmental values and threatened or endangered plants have been incorporated into the plan. (History: 82-4-204, MCA; IMP, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

17.24.824 ALTERNATE RECLAMATION: ALTERNATE POSTMINING LAND USES IS REPEALED (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-232, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; REP, 2004 MAR p. 2548, Eff. 10/22/04.)

17.24.825 ALTERNATE RECLAMATION: ALTERNATE REVEGETATION IS REPEALED (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-233, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1994 MAR p. 2957, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; REP, 2004 MAR p. 2548, Eff. 10/22/04.)

17.24.826 ALTERNATE RECLAMATION: PERIOD OF RESPONSIBILITY FOR ALTERNATE REVEGETATION IS REPEALED (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-223, 82-4-232, 82-4-235, MCA; NEW, 1999 MAR p. 811, Eff. 4/23/99; REP, 2004 MAR P. 2548, Eff. 10/22/04.)

Rules 17.24.827 through 17.24.830 reserved

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17.24.831 AUGER MINING: GENERAL REQUIREMENTS (1) Auger mining operations must comply with applicable strip mining performance standards. (History: 82-4-204, MCA; IMP, 82-4-231, 82-4-232, 82-4-233, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.832 AUGER MINING: SPECIFIC PERFORMANCE STANDARDS

(1) Any auger mining associated with strip mining operations must be conducted to maximize recoverability of mineral reserves remaining after the mining operations are completed. Each operator conducting auger mining operations shall leave areas of undisturbed coal to provide access for removal of those reserves by future underground mining activities, unless the department determines that the coal reserves have been depleted or are limited in thickness or extent to the point that it will not be practicable to recover the remaining coal reserves. The department shall make such determination only upon presentation of appropriate technical evidence by the operator.

(2) Undisturbed areas of coal must be left in unmined sections that:

(a) are a minimum of 250 feet wide at any point between each group of auger openings to the full depth of the auger hole;

(b) are no more than 2,500 feet apart, measured from the center of one section to the center of the next section, unless a greater distance is set forth in the permit application under ARM 17.24.326 and approved by the department; and

(c) for multiple seam mining, have a width of at least 250 feet plus 50 feet for each subjacent workable coal seam. The centers of all unmined sections must be aligned vertically.

(3) An auger hole must not be located closer than 500 feet in horizontal distance from any abandoned or active underground mine workings, except as approved in accordance with ARM 17.24.516.

(4) If the operation involves stripping for the purpose of augering, the requirements of ARM 17.24.501(6)(c) for the purpose of backfilling and grading must be followed.

(5) In order to prevent pollution of surface and ground water and to reduce fire hazards, each auger hole, except as provided in (6), must be plugged to prevent the discharge of water from the hole and access of air to the coal, as follows:

(a) each auger hole discharging water containing toxic-forming or acid-forming material must be plugged within 72 hours after completion by backfilling and compacting noncombustible and impervious material into the hole to a depth sufficient to form a water-tight seal, if possible. If sealing within 72 hours is not possible, the discharge must be treated commencing within 72 hours after completion to meet applicable effluent limitations and water quality standards under ARM 17.24.633 until the hole is properly sealed;

(b) each auger hole discharging water not containing acid- or toxic-forming materials must be sealed with an impervious noncombustible material, as contemporaneously as practicable with the augering operation, as approved by the department; and

(c) each auger hole not discharging water must be sealed as in (5)(a) to close the opening as contemporaneously as practicable with the augering operation.

(6) An auger hole need not be plugged if the department finds that:

(a) impoundment of the water that would result from plugging the hole may create a hazard to the environment or public health or safety; and

(b) drainage from the auger hole will not pose a threat of pollution to surface water and will comply with the requirements of ARM 17.24.631 and 17.24.633.

(7) The department shall prohibit auger mining, if it determines that:

(a) adverse water quality impacts cannot be prevented or corrected;

(b) fill stability cannot be achieved;

(c) the prohibition is necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources; or

(d) subsidence resulting from auger mining may disturb or damage powerlines, pipelines, buildings, or other facilities or does not comply with the subsidence protection requirements of ARM 17.24.901 and 17.24.911. (History: 82-4-204, MCA; IMP, 82-4-231, 82-4-232, 82-4-233, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 2004 MAR p. 2548, Eff. 10/22/04.)

17.24.833 AUGER MINING: REQUIREMENTS FOR PERMIT (1) No permit may be issued for any operation that includes auger mining, unless the department finds, in writing, that, in addition to meeting all other applicable requirements of rules adopted pursuant to the Act, the operations will be conducted in compliance with ARM 17.24.831 and 17.24.832. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-231, 82-4-232, 82-4-233, MCA; NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042.)

17.24.834 REMINING: APPLICABILITY (1) This rule and ARM 17.24.835, 17.24.836, and 17.24.837, apply only to operations which process coal mine waste materials resulting from "previously mined areas" as that term is defined in ARM 17.24.301. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-203, MCA; NEW, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.835 REMINING: APPLICATION AND OPERATING REQUIREMENTS (1) Remining must be conducted to maximize the recoverability of the mineral resource, while using the best control technology available to maintain or whenever possible, to improve environmental quality, and to maximize the post-operational land use potential.

(2) Remining permit applications and operations must comply with all applicable requirements and performance standards, as determined by the department, of subchapters 3 through 12.

(3) Coal mine and coal processing waste must be disposed of according to the following:

(a) the operator shall bury such waste in pits, shafts, adits, or other excavations that are either available on or near the site of the remining operation or that are constructed for the purpose of burial. This disposal and burial must be conducted in accordance with ARM 17.24.501, 17.24.505, 17.24.510, and 17.24.520, as approved by the department; or

(b) if disposal in accordance with (a) above is not technologically possible or cannot be done in compliance with the rules referenced in (a) above, such as with respect to protection of ground water quality, and this is affirmatively demonstrated in the application, the operator shall dispose of coal mine and coal processing waste in accordance with the standards of excess spoil disposal (ARM 17.24.520) and in accordance with the standards of ARM 17.24.501, 17.24.505, and 17.24.510. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-221, 82-4-222, 82-4-231, 82-4-232, MCA; NEW, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.836 REMINING: ELIGIBILITY FOR ABANDONED MINE LAND STATUS (1) Areas within a remining permit area that will not be directly disturbed by remining activities remain eligible for abandoned mine land reclamation funding if the proposed remining operation does not adversely affect existing or probable abandoned mine land reclamation plans and associated costs of reclamation related to such areas, and if this is documented in the application.

(2) Any remining operation must fulfill the reclamation responsibilities described in the permit. To the extent that these responsibilities do not include reclamation of site problems or characteristics otherwise eligible for abandoned mine land funding, these site problems or characteristics may remain eligible for that funding.

(3) The applicant may choose to adopt a reclamation plan for the site that is on file with the department, provided that the applicant demonstrates that this plan is in compliance with ARM 17.24.835. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-239, 82-4-242, MCA; NEW, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1990 MAR p. 936, Eff. 5/18/90; TRANS, from DSL, 1996 MAR p. 2852.)

17.24.837 REMINING: BONDING (1) Bond must be submitted consistent with 82-4-223, MCA, and subchapter 11, except as noted below.

(2) The performance bond for the area must be the estimated total cost to the department for reclamation of the site in accordance with the approved reclamation plan. (History: 82-4-204, 82-4-205, MCA; IMP, 82-4-223, MCA; NEW, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1990 MAR p. 936, Eff. 5/18/90; TRANS, from DSL, 1996 MAR p. 2852.)